GOVERNMENT OF INDIA
FINANCE
LOK SABHA

UNSTARRED QUESTION NO:3060
ANSWERED ON:07.12.2001
REPORT OF COMMITTEE ON ELECTRONIC COMMERCE AND TAXATION
SUBODH MOHITE

Will the Minister of FINANCE be pleased to state:

(a) whether the Committee on Electronic Commerce and Taxation has submitted its report to Government;

(b) if so, the main recommendations of the Committee;

(c) whether the Government have examined the recommendations of the Committee;

(d) if so, the reaction of the Government thereon; and

(e) if not, the time by which it is likely to submit its report?

Answer

MINISTER OF STATE IN THE MINISTRY OF FINANCE (SHRI BALASAHEB VIKHE PATIL)

(a) to (e) Yes, Sir. The High Powered Committee on Electronic Commerce andTaxation has submitted its report to the Government on 6th August, 2001. The main recommendations of the Committee are contained in the Annexure. The Government will examine the recommendations of the Committee after taking into consideration the opinion / comments called for from the public.

ANNEXURE TO LOK SABHA UNSTARRED QUESTION No. 3060 TOBE ANSWERED ON FRIDAY, THE 7TH DECEMBER 2001(16 AGRAHAYANA, 1923-Saka)

Recommendations/Observations of the High Powered Committee on E-Commerce and Taxation

1. The Committee desires the consideration of neutrality of taxation ofe-commerce vis-Ã -vis traditional commerce, ensuring integrity of the direct tax bases and working for international consensus keeping the national interest in view.

2. The effect of e-commerce on the concept of permanent establishment (PE)and characterisation of income in respect of payments in cross border transactions have been examined by the Committee. The Committee is ofthe view that the concept of PE needs to be abandoned. Under the existing principles of international taxation the server of a non-resident enterprise, hosting its Website, would constitute a PE if the server is at the disposalof the enterprise, and remains at a fixed place for a period of time and performs the core business functions of the enterprise. However, this does not lead to certainty of taxation in view of the possibility of use of minor servers. It also results in shifting of equilibrium in revenue sharing in favor of countries of residence as against countries of source, because very little income would be attributable to such a stand-alone server.

3. The issues regarding characterisation of income through cross border payments have been examined with reference to the 28 categories of transactions considered by the Tax Advisory Group (TAG) of Organisationfor Economic Cooperation and Development (OECD).The Committee`s viewsdiffer from those of the OECD in regard to a number of these categories. The Committee has recommended that a view should be taken in regard to each of these 28 categories to ensure uniformity of approach by different Assessing Officers. It has also recommended regular monitoring of new emerging categories of transactions as a continuous process.

4. With regard to enforcement the Committee is of the view that the extent of e-commerce, particularly online e-commerce is nominal at present and is not likely to be significant in near future. However, the enforcement challenges will arise once the problems in delivery and payment mechanism are sorted out. A number of recommendations have been made to prepare the Income-tax administration to meet these challenges.

5. Finally, the Committee has pointed out areas in which taxpayer services can be improved through the use of Internet.

The Report is now available on the web site of the Ministry of Finance: htpp://www.finmin.nic.in for comments/opinion from the public.